

CHARTER
OF THE
City of Fruitland
WICOMICO COUNTY, MARYLAND

*As found in the Public Local Laws of Wicomico County,
1978 Edition, as supplemented to February 25, 1982*

(Reprinted November 2008)

The Department of Legislative Services
General Assembly of Maryland
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FRUITLAND

ARTICLE I Incorporation; Corporate Limits

Section FC1-1. Incorporation; body corporate.

The inhabitants of the City of Fruitland in Wicomico County, Maryland, are hereby constituted a body corporate by the name the "City of Fruitland" and by that name shall have perpetual succession, sue and be sued, have and use a common seal which may be altered at pleasure and have all the powers and privileges now or hereafter authorized by the State of Maryland.

Section FC1-2. Records of Corporate Boundaries.

The courses and distances showing the exact corporate limits of the City shall be filed at all times with the Clerk of the Circuit Court of Wicomico County, and the Director of the Department of Legislative Reference [Services]. In addition, a copy of the courses and distances describing the corporate boundaries shall be on file in the office of the City Clerk. All such descriptions of corporate boundaries shall be recorded and filed in a suitable book or place, properly indexed and reasonably available for public inspection during normal business hours. (Res. No. 2-94, 11-30-94.)

ARTICLE II The Council

Section FC2-1. Vesting of legislative power; composition; election generally and terms of Councilmen.

All legislative powers of the city shall be vested in a Council of five (5) members who shall be elected as herein after provided and who shall hold office for terms of four (4) years or until their successors are duly elected and qualified. The regular terms of Councilmen shall expire on the first Tuesday of the month following the election of their successors.

Section FC2-2. Composition and terms.

A. The corporate powers of the City of Fruitland shall be vested in and shall be exercised by a Council of five (5) members to be known as the "City Council," who shall be elected from the city at large, shall hold office for a term of four (4) years or until their successors are duly elected and qualify by taking an oath administered by the City Clerk that he will diligently and faithfully discharge all the duties of his office. The regular term of Councilmen shall expire on the first Tuesday of the month following the election of their successors. Election of Councilmen shall be as provided in § FC4-7 hereof.

B. *Officers.* The new City Council shall, at its first meeting following a regular city election, choose one (1) of its members as President and another of its members as Treasurer, and the members so chosen shall serve in such capacities for a period of two (2) years or until their successors are duly elected and qualified. The City Solicitor shall preside during reorganization of the City Council.

C. *President: duties and powers.* The President of the Council shall be the chief administrative officer of the city and shall supervise the activities of all departments of the city government except the Department of Finance. He shall, together with the Treasurer, prepare the annual budget of the city and submit it to the Council for approval. He shall preside at all meetings of the Council and shall sign all contracts, deeds or other instruments on behalf of the City of Fruitland. He shall make recommendations to the Council for the appointment of persons to fill vacancies among the heads of departments or in such other offices as may hereafter be created by ordinance.

D. *Treasurer: duties and powers.* The Treasurer shall head the Department of Finance and shall be responsible for the collection of all taxes and other moneys due the city and the verification of and payment of all accounts. He shall, with the President, prepare the annual budget of the city. He shall recommend to the Council the selection of the independent accountant who shall audit the city's books and accounts. He shall report to the Council once each month on the state of the city finances and shall report to the Council quarterly on the status of the current budget. He shall supervise the work of the employees of the Department of Finance. He shall give bond to the City of Fruitland, with such surety or sureties as the Council may require, in such amount as the Council may require, but not less than the minimum sum of fifty thousand dollars (\$50,000.). The cost of said bond and the cost of any other employee bonds shall be paid out of municipal funds, and such bond or bonds shall be deposited with the City Clerk.

Section FC2-3. Other offices.

Councilmen may be assigned, by action of the Council, special liaison duties between the Council and department heads during any period in which there is no City Manager. A Councilman so assigned shall fully acquaint himself with the operation of the department or departments to which he is assigned and shall consult with the department head on special problems and policies relating to his department. Nothing herein contained, however, shall interfere with or restrict the right of the department head to communicate directly with the Council or the members thereof. Councilmen may also be assigned by action of the Council to serve on boards or commissions created by the Council or to serve as the representative of the city on county-wide or area boards or commissions.

Section FC2-4. Qualifications.

Councilmen shall have resided in Fruitland for at least one (1) year immediately preceding their election and shall be qualified voters of the city.

Section FC2-5. Salaries of Councilmen.

A. *President and Treasurer.* The President and Treasurer shall receive such salaries for their services as President and Treasurer, respectively, as the City Council may from time to time prescribe by ordinance; provided, however, that no salary ordinance shall become effective during the current terms of those holding office as President and Treasurer when such ordinance is passed.

B. *Councilmen.* Councilmen shall receive such salaries for their services as the City Council may from time to time prescribe by ordinance; provided, however, that no salary ordinance shall become effective until after the expiration of the current terms of all Councilmen in office when such ordinance is passed.

Section FC2-6. Meetings.

The Council shall meet on the second Tuesday of the month following each councilmanic election for the purpose of organization, after which the Council shall meet regularly at such times as may be prescribed by its rules, but not less frequently than once each month. Special meetings may be called by the President or by a majority of the members of the Council.

Section FC2-7. Quorum.

A majority of the Council shall constitute a quorum for the transaction of business, and a majority of those present shall decide any question unless otherwise in this Charter.

Section FC2-8. President Pro Tempore; rules and order of business; journal of proceedings.

If the President is absent, the Council shall elect a President Pro Tempore for such meeting. The Council shall determine its own rules and order of business. It shall keep a journal of its proceedings, and the journal shall be open to public inspection.

Section FC2-9. Filling of vacancies.

A. *President or Treasurer.* In case of a vacancy for any reason in the offices of President or Treasurer, the Council shall at its next regular meeting, or at a special meeting called for the purpose, elect one (1) of the remaining members of the Council to fill the vacant office for the unexpired term. The election and acceptance of the persons elected shall be certified by the City Clerk. The President or Treasurer may be removed from office as such by the vote of the remaining four (4) members of the Council.

B. *Councilmen.* In case of a vacancy in the office of Councilman, the Council shall, at its next regular meeting, set the date for a special election of the voters of Fruitland, at which election a successor shall be elected to serve the remainder of the unexpired term. If, however, at the time the vacancy occurs there is four (4) months or less remaining of the term of office of the vacating Councilman, no special election shall be held, and the office shall remain vacant until the next regular election.

Section FC2–10. Creation, change, etc., of offices and departments.

The Council by ordinance may create, change and abolish offices, departments or agencies, other than the offices, departments and agencies established by this Charter. The Council by ordinance may assign additional functions or duties to offices, departments or agencies established by this Charter but may not by ordinance discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency.

Section FC2–11. Salary of officers and employees.

The Council shall fix the salaries of all employees and appointees of the City of Fruitland, including the salaries of all heads of offices, departments or agencies. Where possible, salaries of subordinate employees shall be set by classification and not individually.

Section FC2–12. Dismissal of department heads.

The heads of all departments of city government who shall be appointed by the Council shall serve during good behavior and shall be discharged only for cause, as hereinafter defined, found by the Council after hearing. Written charges signed by a member of the Council shall be served upon a department head accused of dischargeable cause at least ten (10) days prior to the Council hearing thereon, which hearing must be held within twenty-one (21) days from the date of service of such charges. At least three (3) affirmative votes shall be required before such department head shall be dismissed from employment by the Council. The President of the Council shall have the power to suspend without pay any department head upon whom written charges have been served pending the outcome of the Council hearing thereon. "Cause" is hereby defined to mean either neglect of duty, inefficiency, insubordination, habits or traits of character which render retention in employment to be against the public interest, continuing mental or physical disability of such a nature as to prevent adequate performance of duties, any conduct tending to prejudice good government or tending to bring the city or any agency thereof into public disrepute.

Section FC2–13. Procedure for passage of ordinance and Zoning Map changes generally.

When any ordinance or Zoning Map change is introduced for passage by the Council, it shall be read but not passed at the meeting at which it is introduced. As soon thereafter as conveniently may be, a statement of the substance of the ordinance or Zoning Map amendment shall be published by posting the same on a bulletin board in the municipal offices and by printing the same in some newspaper of general circulation in the City of Fruitland. At any regular meeting held after the publication of at least five (5) days, the substance of said ordinance or Zoning Map amendment and not less than seven (7) days after its introduction, the ordinance or Zoning Map amendment shall be read for a second time and passed, or amended and passed, or rejected or its consideration deferred to some specified future date by the Council.

Section FC2-14. Approval of ordinance, etc.

All ordinances and Zoning Map amendments shall be passed only by the affirmative vote of three (3) members of the Council. The members voting affirmatively for the passage of any ordinance or Zoning Map amendment shall append their signatures to the ordinance or the Zoning Map amendment as evidence of its passage. All ordinances and Zoning Map amendments shall then be delivered to the City Clerk who shall endorse thereon the date of final passage and file the ordinance or Zoning Map amendment in books kept for this purpose.

Section FC2-15. Delivery of ordinances to the Judge of the District Court of Wicomico County.

The City Clerk shall deliver to the Judge of the District Court of Wicomico County a certified copy of all ordinances for the violation of which said Judge may impose a fine or imprisonment, or both, or other punishment and shall furnish a binder for the inclusion of such ordinances. The Judge shall take judicial notice of all ordinances so certified to him and of the due passage thereof.

Section FC2-16. Power as to passage of ordinances, etc., generally.

The Council shall have the power to pass all such rules, resolutions and ordinances not contrary to the Constitution of the United States, the Constitution and laws of Maryland or this Charter, as it may deem necessary for the good government of the city; for the protection and preservation of the city's property, rights and privileges; for the preservation of peace and good order and for securing persons and property from violence, danger or destruction; for the protection of the health, comfort and convenience of the residents of Fruitland and visitors thereto and sojourners therein; and for the promotion and orderly development of the city, the areas included therein and the residences and businesses of the people working and living therein.

ARTICLE III

Powers

Section FC3-1. Enumeration generally.

The Council shall have the power to pass all such rules, resolutions and ordinances not contrary to the public general laws of Maryland and the Constitution of Maryland and this Charter as it may deem necessary for the good government of the city; for the protection and preservation of the city's property rights and privileges; for the preservation of peace and good order and for securing persons and property from violence, danger or destruction; for the protection of the health, comfort and convenience of the residents of Fruitland and visitors and sojourners therein; for the promotion of and orderly development and growth of the city and all of the areas included therein; for the facilitation of the transportation of persons and property within the city; and for the protection and development of the cultural aspects of the city's life.

Section FC3-2. Enumeration of express powers.

A. In addition to, but not in substitution of, the powers which have been, or may hereafter be, granted to it, the Council shall have the following express ordinance-making powers:

(1) *Advertising.* To provide for municipal advertising, for the printing and publication of statements of the receipts and expenditures of the city and the publication and codification of all laws, ordinances, resolutions or regulations adopted by or affecting the municipality.

(2) *Aisles.* To regulate and prevent the obstruction of aisles in public halls, churches, places of amusement and places of public congregation.

(3) *Amusements.* To provide for the restraining of theatrical or other public amusements of an immoral or indirect nature within the city.

(4) *Appropriations.* To expend municipal funds for any purpose deemed to be public and to affect the safety, health and general welfare of the city and its occupants, provided that funds not appropriated at the time of the annual levy shall not be expended, nor shall any funds appropriated be expended for any purpose other than that for which appropriated except by a two-thirds vote of all members of the Council.

(5) *Audits.* To provide for the appointment of an auditor or accountant to audit the books and accounts of all municipal officers collecting, handling or disbursing funds belonging to the city.

(6) *Band.* To establish, maintain and support a municipal band or musical organization or to contribute to the maintenance of a nonprofit band or municipal organization.

(7) *Buildings, plumbing, etc.* To make reasonable regulations in regard to buildings to be erected in the city and to grant building permits for the same; to formulate a Building Code, a Plumbing Code and a Housing Code and to appoint a Building Inspector and a Plumbing Inspector and to require reasonable charges for permits and inspections; to regulate and restrict the height, number of stories and the size of buildings and other structures, the size of yards, courts and open spaces and the location and use of buildings, structures and land for trade, industry or residence, or tanks, pumps, towers or other fixtures; to establish the distance buildings, or any part thereof, fences or walls shall be erected from inner curb or street lines; to direct in what part of the city wooden buildings shall not be erected or constructed; to authorize and require the inspection of all buildings and structures and to authorize the condemnation thereof in whole or in part when dangerous or insecure and to require that such buildings and structures be made safe or taken down.

(8) *Cemeteries.* To regulate the interment of bodies and to control the location and establishment of cemeteries.

(9) *Community services.* To provide, maintain and operate such community and social services for the preservation and promotion of the health, recreation, welfare, enlightenment and cultural development of the inhabitants of the city as the inhabitants of the city (See note (4)) as the Council may determine.

(10) *Corporate name.* To change the corporate name of the city, provided that no such change shall affect any rights, duties or obligations of the city, and provided further that such ordinance shall first be submitted and approved by the qualified voters of the city at a regular or special city election.

(11) *Curfew.* To prohibit the youth from being on the streets and public places at unreasonable hours of the night.

(12) *Dogs and other pets.* To regulate the keeping of dogs and other pets in the city and to provide for the licensing and taxing of the same; to provide for the disposition of homeless dogs, cats and other animals and pets on which no licenses or taxes are paid.

(13) *Exits.* To regulate the construction and maintenance of exits from all places of public congregation.

(14) *Explosives, firearms, etc.* To control the use and handling of dangerous and explosive materials; to prevent and regulate the storage of dangerous, combustible and explosive materials within the city; to regulate and prevent the firing of any firearms, weapons or explosives within the city.

(15) *Finances.* To have the general management and control of the finances of the city and to designate by ordinance or resolution the banks, trust companies or other insured depositories of this state in which shall be deposited all funds belonging to the city.

(16) *Fire protection.* To suppress fires and prevent the dangers thereof; to contribute to or support, in whole or in part, volunteer fire companies operating within the city; to inspect buildings for the purpose of reducing fire hazards and to forbid and prohibit the use of fire hazardous buildings and structures permanently or until the conditions of city fire hazard regulations are met; and to take all other measures necessary to control and prevent fires in the city.

(17) *Franchises.* To grant franchises to utility, communication and transportation companies seeking to provide services within the city and to any others not otherwise described which may be deemed advantageous and beneficial to the city and its inhabitants, or the regulation of which may be necessary to ensure adequate and satisfactory service to the city and its inhabitants; the city, notwithstanding anything which may be set out in any such franchise, shall not have the power to divest itself of its police power to regulate and control the use of streets, alleys, highways and other public places of the city under any franchise that may be so granted by it; all franchises granted by the city shall be for a definite term of years not exceeding twenty-five (25) and shall be renewable at the discretion of the city; no power or right not expressly granted in such franchises shall pass thereunder; and for any franchises

hereafter granted, either original or renewable, the city may make such charges for the use of its streets, alleys, highways and other public places as may therein be provided.

(18) *Garbage.* To provide for the collection and removal of filth, garbage or any matter or thing that is or may become injurious to the health or comfort of the inhabitants of Fruitland and to contract for the collection and removal of same, or to have same collected, removed or any nuisance abated by the city; to regulate or prevent the throwing or depositing of any dirt, garbage, trash or liquids in any public place; to differentiate between the types of filth, garbage or other matter or material which shall be collected and disposed of by the city at public expense and which types shall be collected and disposed of at private expense; or to differentiate between residences and commercial and industrial establishments in determining what filth, garbage or other matter or material shall be collected and disposed of at public expense; and to regulate and license the collection of filth, garbage, waste or other matter or material within the city.

(19) *Grants-in-aid.* To accept gifts and grants of federal or state funds, or any agency of each, or from private foundations, and to expend the same for any lawful public purpose, agreeable to the conditions under which the gift or grant was made.

(20) *Hawkers, peddlers, etc.* To regulate and provide for the issuing of licenses or permits for hawking, peddling and vending of wares and merchandise of every description upon the public ways of the city and to issue licenses or permits for itinerant merchants who have no permanent places of business within the city and who may go from house to house to vend or sell any wares or merchandise or vend or sell the same from a hotel, motel or other temporary location.

(21) *Health.* To appoint a Board of Health and to define its powers and duties or to delegate to the Health Department of Wicomico County such of these powers and duties as it may determine; to regulate the places of manufacturing soap, fertilizer and other noxious products; to regulate slaughterhouses, parking [packing] houses and all places where offensive trades may be carried on; to regulate places which cause or may cause unsanitary conditions or conditions detrimental to health, provided that nothing herein shall be construed to affect in any manner any of the State Board of Health or County Board of Health or any public general law relating to the subject of health.

(22) *House numbers.* To regulate the numbering of buildings and lots and to compel owners to number or renumber the same or, in default thereof, to authorize and require the same to be done by the city at the owner's expense, such expense to constitute a lien upon the property and be enforceable as provided by ordinance.

(23) *Inspections.* To authorize and require the inspection of gas pipes, oil lines, water pipes, plumbing apparatus, steam lines, electric lines, wires and cables and drainage and sewage systems on private property and to compel repairs thereon.

(24) *Jail.* To establish and regulate a station house or lockup for temporary confinement of persons arrested or picked up for safekeeping by the city police.

(25) *Licenses generally.* To issue licenses to any and all persons entering into or beginning transient business in the city for the sale of any goods, wares or merchandise; to license and regulate fire sales or going-out-of-business sales; to license and regulate places of amusement and athletic events or exhibitions; to license or regulate any other business or calling where such licensing and regulation is not preempted by public general law.

(26) *Liens.* To provide that any valid charges, taxes or assessments made against any real property, or that the costs of work done upon private property to abate nuisances or promote the public welfare under the authority of a valid municipal ordinance, shall be liens upon such property to be collected in the same manner as municipal taxes are collected.

(27) *Markets.* To establish and regulate markets and to license the sale of marketable commodities therein.

(28) *Merit and pension system.* To establish and maintain merit and pension systems or provide a group insurance plan providing health, accident, hospitalization, surgical, any pension benefits or payments or any of them for all city employees except elected officials or those serving without compensation; or to include its officers and employees in any retirement or pension system operated by or in conjunction with the state, on such terms and conditions as state laws may prescribe. In connection with any merit system established, the city may request and avail itself of the facilities of the Commissioner of State Employment and Registration for the administration of such merit system without unnecessary expense.

(29) *Minor privileges.* To establish and maintain a system of minor privileges and provide licenses and fees therefor, provided that no grant of a minor privilege may be used to avoid the requirements of any planning or zoning ordinances.

(30) *Museums, etc.* To establish and maintain museums and art centers, including those for the performing arts; to preserve, protect and maintain buildings and structures of historical or architectural significance or importance; and to require the preservation and protection of buildings, structures and areas of historical or architectural significance or importance; to provide for the collection and maintenance of historical, artistic and cultural material connected with the city and surrounding area or the residents or former residents thereof.

(31) *Mutual arrangement.* The city shall have the right to make a mutual arrangement with the State of Maryland or any agency thereof, with Wicomico, Somerset or Worcester Counties or any agency thereof or with any other municipality of either of said counties, for the mutual ownership or operation of any facility or utility or part thereof; or by contract to provide services for or receive services from any such governmental body or agency thereof.

(32) *Parking lots.* To license, regulate, establish, operate, acquire, own and maintain parking lots; and to charge for the use of municipally owned and/or operated parking lots.

(33) *Parks.* To establish and maintain such parks, squares, gardens, playgrounds and recreational facilities as in the discretion of the Council are deemed to be for the health and welfare of the city and its inhabitants.

(34) *Planning.* To appoint a Planning Board and to define and regulate its powers and duties; to employ persons skilled in municipal planning to assist in the planned development of the city; or to arrange for planning services from some other governmental agency on a fee or cost sharing basis.

(35) *Police.* To establish and maintain an adequate police force.

(36) *Police Powers.* To punish and suppress vagrancy, vice, gambling and the owning or keeping of houses of ill fame within the limits of the city. To enforce all ordinances relating to disorderly conduct and the suppression of nuisances within the city.

(37) *Promotion of industry.* In order to encourage the location and expansion of industry within the city limits, to acquire by gift or purchase real or personal property and to build and erect improvements on real property for sale or lease; and to borrow money upon the faith and credit of the city for this purpose and to secure the same by bond, mortgage or other security for the debt.

(38) *Property.*

(a) To acquire by conveyance, purchase or condemnation real, leasehold property or easements needed for any public purpose; to erect structures thereon for the benefit of the city and its inhabitants; and to sell at public or private sale after twenty (20) days' public notice and to convey to the purchaser or purchasers thereof any real or personal property belonging to the city when the Council determines that the same is no longer needed for present public use.

(b) To take by gift, grant, bequest or devise and to hold real and personal property absolutely or in trust for parks or gardens or for the erection of statues, monuments, buildings or structures or for any public use upon such terms and conditions as may be prescribed by the grantor or donor and accepted by the city; to provide for the proper administration of the same; and to convey the same when the council determines that it is no longer needed for public purposes, subject to the terms of the original grant.

(c) To control and protect the public grounds and property of the city and to regulate and control the use and access thereto by the public.

(39) *Public utilities.* To establish, own, control, operate, maintain and manage public utilities within and without the city, including docks and wharves, markets, water and sewer systems, transportation systems, electric and nuclear power systems and steam and other heating and power systems; and to purchase, condemn or otherwise acquire, in fee simple or

otherwise, for the purpose of establishing, owning, controlling, operating, maintaining or managing any such utility or utilities.

(40) *Removals and suspensions.* To remove or temporarily suspend any person who has been appointed to any municipal office, subject to any provisions of this Charter for notice and hearing, and to fill the vacancy caused by such removal or suspension. The Council shall not recognize the right of the municipal employees to strike against the city, and any employee who absents himself from work because of a strike or other dispute shall be deemed guilty of misconduct in office and shall be subject to suspension or removal from office.

(41) *Salaries.* To fix the salary or compensation of all municipal officers and employees, subject to any limitations elsewhere set forth in this Charter.

(42) *Seal and flag.* To make, have and use and from time to time alter a common seal. To adopt and use a city flag or banner and to alter the same from time to time.

(43) *Sidewalks.* To regulate the use, width and construction of sidewalks and all structures on, under or above same and to require the owner or occupant of the abutting premises to keep the sidewalks free from snow, ice and other obstructions or impediments to safe pedestrian use.

(44) *Streets.* To open, close, widen, repair, resurface, cut, move, light and otherwise control the streets, roads, lanes, alleys and sidewalks of the City; to regulate their use and access thereto by vehicles and by utilities on, above or below the surface thereof; and to regulate the speed of vehicular traffic, PROVIDED, that the regulation of the flow and movement of traffic and parking of vehicles, as well as the lighting and placement of signs to accomplish same, and the customary and ordinary road maintenance, cleaning, repair, cutting for utilities or maintenance, and painting, as well as the placement of curb cuts, handicap ramps and other such similar uses, are covered by Subsection B hereof.

(45) *Tunnels, towers and airspace.* To control and regulate the construction and use of tunnels within the city; the erection, maintenance and lighting of towers; and the use of the airspace over the city above height allowed for buildings; and to control and suppress the pollution thereof.

(46) *Urban renewal.* To undertake and carry out urban renewal projects for slum clearance and the redevelopment and rehabilitation of slum and blighted areas; and to acquire in connection with such projects, with [within] the city limits, land and property of every kind and any right, interest, franchise, easement or interest therein; to sell, lease, convey, transfer or otherwise dispose of said land or property, developed or undeveloped, to any public, quasi-public or private corporation, firm, person or legal entity. To condemn property for this purpose and to appropriate such funds and make such expenditures as may be required for these purposes; and to borrow money for these purposes and to secure the same by mortgage or bonds upon the full faith and credit of the city.

(47) *Zoning.* To provide reasonable zoning regulations for all areas within the city and in areas hereinafter annexed.

B. The City Council shall have the following express powers which may be implemented by Resolution and shall not be required to be implemented by the full Ordinance procedure: To regulate the placement of lighting and street signs for the regulation of the directional flow of traffic, stop signs, yield signs, curb cuts, no parking zones, limited or restricted parking zones, handicap parking zones, one-way traffic, time restricted parking and the placement of such advisory signs including, but not limited to, those designating curves, bumps, schools and other such street regulations, signs and devices, and further to empower the Director of Public Works in consultation with the Chief of Police or his designee to comply with any such enacting Resolution by determine the exact placement of such signage. (Res. No. 1-04, 3-24-04.)

Section FC3-3. Enforcement of ordinances.

A. The Council shall have the power to provide that violations of ordinances and resolutions authorized by this Charter shall be punishable as misdemeanors, unless specified in said ordinances as infractions, and may affix thereto penalties of a fine not exceeding five hundred dollars (\$500.) or imprisonment for not exceeding ninety (90) days, or both such fine and imprisonment. Any person subject to any fine, forfeiture or penalty has the right of appeal within ten (10) days to the Circuit Court of the county in which the fine, forfeiture or penalty was imposed. The Council may provide that, if the violation is of a continuing nature and is persisted in, a conviction for one (1) violation shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction.

B. *Infractions.*

(1) The Council may provide that violations of any municipal ordinance shall be a municipal infraction unless that violation is declared to be a felony or misdemeanor by the laws of the state or other ordinance. For the purposes of this Article a municipal infraction is a civil offense.

(2) A fine not to exceed one hundred dollars (\$100.) may be imposed for each conviction of a municipal infraction. The fine is payable by the offender to the municipality within twenty (20) calendar days of receipt of a citation. Repeat offenders may be assessed a fine not to exceed two hundred dollars (\$200.) for each repeat offense, and each day a violation continues shall constitute a separate offense.

(3) Any person receiving a citation for an infraction may elect to stand trial for the offense by notifying the city in writing of this intention at least five (5) days prior to the date set for payment of the fine. Failure to pay the fine or to give notice of intent to stand trial may result in an additional fine or adjudication by the court.

(4) Adjudication of a municipal infraction is not a criminal conviction for any purpose, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction. (Amended 8-8-78 by Res. No. 2-1978.)

Section FC3-4. Exercise of powers.

All the powers of the city shall be exercised in the manner prescribed by this Charter or, if the manner is not prescribed, then in such manner as may be prescribed by ordinance.

ARTICLE IV

Registration, Nominations and Elections

Section FC[4]-1. Qualifications of voters.

Any citizen of the United States who has attained the age of eighteen (18) years and who resides in the City of Fruitland at the time of registration shall be eligible to register and after registration shall be eligible to vote at all municipal elections, so long as he is a citizen of the United States, resides in the City of Fruitland and is not otherwise ineligible to vote in statewide elections. (Res. No. 1-89, 1-31-89; Res. No. 1-93, 6-30-93; Res. No. 1-06, 10-25-06.)

Section FC4-2. Board of Supervisors of Elections.

The City Council shall appoint three (3) residents who are qualified voters of the City to serve as a Board of Supervisors of Elections. The term of the members shall be six (6) years. The terms of the three (3) members of the Board of Supervisors of Elections are staggered, and as of the effective date of this Charter Resolution No. 1-06, the terms of the current members end as follows: one on June 30, 2007; one on June 30, 2008; and one on June 30, 2009, which shall continue hereinafter until the scheduled expiration of their terms and qualification of their respective successors or their reappointment as the case may be. Any vacancy during the unexpired term of a member shall be filled by the City Council for the remainder of the term. All members shall serve until their successors are appointed and qualified. The compensation of the members of the Board of Supervisors shall be determined by the City Council. Before entering upon the duties of this office, each member of the Board shall take oath before the City Clerk that he will diligently, faithfully and impartially discharge his duties as a member of said Board. The Board shall annually select one (1) of its members as Clerk and another as Chairman, who shall so serve until replaced in such capacity, and each member shall have power to administer oaths in connection with the registration of voters for municipal elections. When authorized by the City Council by Ordinance, the Board of Election Supervisors may appoint such other persons to officiate at registration and elections as may be required. (Res. No. 1-89, 1-31-89; Res. No. 1-06, 10-25-06.)

Section FC4-3. Registrations and elections generally.

The City shall participate in the Wicomico County Universal County-wide registration whereby residents qualified to vote in Wicomico County may register to do so with the Wicomico County Board of Supervisors of Elections.

The Fruitland Board of Supervisors of Elections shall obtain a list of qualified and registered Wicomico County voters who reside within the City of Fruitland from the Wicomico County Board of Supervisors of Elections and shall conduct all regular and special elections in accordance with provisions to this Charter and Ordinances of the City. The Board of Supervisors of Elections shall act as a board of canvassers for all regular and special elections of the City and shall, within forty-eight (48) hours after the closing of the polls after each such election, certify the results thereof to the City Clerk, who shall record the same in the Minutes of the City Council. The City Clerk shall issue Certificates of Election to the candidates who have been declared elected by the Board of Supervisors of Elections on the basis of the results announced by them. The Board of Supervisors of Elections shall declare, in descending order of the number of votes received, the candidates elected to each office until all offices contested in said election have been filled. The City Clerk shall also enter into the Minutes of the City Council the results of any referendum held at a general or special election. (Res. No. 1-89, 1-31-89; Res. No. 1-92, April 1, 1992; Res. No. 1-06, 10-25-06.)

Section FC4-4. Deleted (Res. No. 1-06, 10-25-06.)Section FC4-5. Registration and maintenance of registration records.

Once registered, a voter shall remain registered unless removed from the books by either the Wicomico County Board of Supervisors of Elections or by the Fruitland Board of Supervisors of Elections for cause. "Cause" shall be defined as one of those reasons set forth in the Maryland Code, Elections [Election] Law Article, §§ 3-102 and 3-502. The Board of Supervisors of Elections shall, at least once each year, examine the registration books in order to determine the names of those persons who should be removed for cause as above defined and to make such investigation and take such action as shall be required to see that the registration books contain only those duly qualified to vote. Any applicant who has been denied the right to register, or a person whose name has been removed from the registration list, or a person who has been denied the right to vote and who feels aggrieved, may seek resolution of such dispute pursuant to Maryland Code, Elections [Election] Law Article, Subtitle 6. (Res. No. 1-89, 1-31-89; Res. No. 1-93, 6-30-93; Res. No. 1-06, 10-5-06.)

Section FC4-6. Voting list.

The voting list obtained and maintained pursuant to FC4-3 and FC4-5 of the Board of Supervisors of Elections shall constitute and be the list of those persons eligible to vote at City elections who have qualified and registered with the Wicomico County Board of Supervisors of Elections and reside within the City, and no person whose name does not appear on such record shall be eligible to vote at any municipal election. No names shall be added to the list after it has been received from the Wicomico County Board of Supervisors of Elections, and no names shall

be removed, except those known to the Fruitland Board of Supervisors of Elections to be non-residents of the City at the time said voting list is received and as per the provisions of FC4-5. Said lists shall be open to inspection upon request during normal business hours. (Res. No. 1-89, 1-31-89; Res. No. 1-06, 10-25-06.)

Section FC4-7. Regular elections.

Regular elections for the election of Council Members shall be held on the first Monday in October in even years. Notice of the time, place and hours of voting shall be given by publication in some newspaper of general circulation in the City of Fruitland at least two (2) weeks prior to the date of such election, and at least one (1) week prior to any run-off election. Three (3) Council Members shall be elected in 1974 and every fourth (4th) year thereafter. Two (2) Council Members shall be elected in 1976 and every fourth (4th) year thereafter. In the event that the Board of Supervisors of Elections reports that a tie vote between two (2) or more candidates has resulted in its inability to declare one (1) or more candidates elected, then there shall be a run-off election between said candidates who are tied with the high vote recipient to be declared elected. Such run-off elections shall be held two (2) weeks after the original regular election which resulted in the tie.

The City Council shall designate, by resolution, the polling place or places (which must be within the City limits) and the times at which the same shall be open for voting (which times must be between 7 a.m. and 8 p.m., and shall in no event be less than six (6) hours), at least two (2) weeks prior to the date of such election in the case of a regular election and at least one (1) week prior to a run-off election as aforesaid. In the event that the City Council fails or refuses to so designate the polling place or places and hours of operations, then the polling place shall be the Fruitland City Hall and the hours of operation for voting shall be between the hours of 7 a.m. and 8 p.m. (Res. No. 1-92, April 1, 1992; Res. No. 1-06, 10-25-06.)

Section FC4-8. Special elections.

Any special election or referendum required by the provisions of this Charter shall be held at such time and place as the City Council shall provide; and notice thereof shall be given in the same manner as for any regular election, subject to those changes set out in Section 4-7, and in addition, such notice shall state the purpose of said special election and who is eligible to vote therein. (Res. No. 1-06, 10-25-06.)

Section FC4-9. Candidates.

Any person possessing the qualifications for Council Member may file a Certificate of Candidacy with the Board of Supervisors of Elections. Such Certificate shall be filed at least twenty-eight (28) days prior to the date of election. Such Certificate shall be filed under oath and shall be on a form prepared by the Board of Supervisors of Elections. The names of all persons whose Certificates of Candidacy have been properly filed shall appear on a printed ballot or on the voting machines in alphabetical order. The full name of each candidate shall appear on the ballot or machine without nickname or political affiliation. A facsimile of the official ballot shall be posted outside each polling place and shall be published in a newspaper of general circulation

in the City before each City election. A candidate may withdraw his Certificate of Candidacy within seven (7) days after the last filing date, but the names of all persons then remaining shall appear on the official ballots or voting machine. (Res. No. 1-06, 10-25-06.)

Section FC4-10. Data on Council Members.

The City of Fruitland shall keep a record of all its Council Members, which record shall state:

- A. The full name of each Council Member;
- B. The date of his appointment or election;
- C. The date of his taking the oath of office; and
- D. The date on which he ceased to be a Council Member along with the reason therefor, whether by expiration of his office, death, resignation or otherwise. (Res. No. 1-06, 10-25-06.)

ARTICLE V

Department of Finance

Section FC5-1. Department of Finance generally.

There shall be a Department of Finance headed by the Councilman-Treasurer. The financial powers of the city, except as otherwise provided by this Charter, shall be exercised by the City Treasurer.

Section FC5-2. Powers and duties of City Treasurer generally.

The City Treasurer shall have authority and shall be required to:

- A. *Disbursements.* Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to assure the budget appropriations are not exceeded.
- B. *Accounting system.* Maintain a general accounting system for the city in such form as state law or the Council may require.
- C. *Monthly statement.* Submit to the Council a monthly statement of all receipts and disbursements in such form as the Council may require.
- D. *Annual financial report.* Submit at the end of each fiscal year a complete financial report to the Council.

E. *Assessments of taxable property.* Ascertain that all taxable property within the city is assessed for taxation.

F. *Collection of taxes, etc., and receipt of funds.* Collect all taxes, special assessments, license fees, liens, interest and service charges and all other revenues, including utility revenues, of the city and all other revenues for whose collection the city is responsible and receive any funds receivable by the city, including donations and gifts.

G. *Custody of public money.* Have custody of all public moneys belonging to or under the control of the city, except as to funds in the control of any set of trustees or special commissions, and have custody of all bonds and notes of the city.

H. *Custody of investments.* Have custody of all investments and invested funds of the city or under the control of the city, except as to funds in the control of any set of trustees or special commissions; provided, however, that funds shall be invested or reinvested only by direction of the Council.

I. *Additional duties.* Do such other things in relation to the fiscal or financial affairs of the city as the Council may require or may be required elsewhere in this Charter.

Section FC5–3. Deputy Treasurer.

There shall be a Deputy Treasurer appointed by the Council upon recommendation of the Treasurer. Such Deputy Treasurer, once appointed, may be removed only by the same procedure required for removal of a department head. The salary of the Deputy Treasurer shall be set by the Council, and the position may be held by the City Clerk or a City Manager. The Deputy Treasurer, under the direction of the Treasurer, shall supervise and perform the functions and duties of the Department of Finance. The Deputy Clerk will be bonded in such amount as the Council may require.

Section FC5–4. Expenditures to be authorized by Council.

No public money may be expended without having been appropriated by the Council.

Section FC5–5. Fiscal year.

The city shall operate on an annual budget. Its fiscal, tax, budget and accounting years shall be the same and shall begin on July 1 and expire the last day of June following.

Section FC5–6. Preparation and submission of budget.

A. The proposed budget for the next fiscal year shall be jointly prepared by the Council President and the City Treasurer. The Council President shall obtain from the head of each office, department and agency detailed estimates of both expected revenues and proposed expenditures; and an estimate of all capital projects pending, or which such office, department or

agency head believes should be undertaken within the budget year and within the five (5) next succeeding years.

B. The Treasurer shall prepare a similarly detailed report of the actual and expected revenues and expenditures for each office, department or agency and expenditures currently being made on all capital projects.

C. From the above information and from such other information as they may prepare or require from other city officials, the Council President and City Treasurer shall prepare a proposed budget for the ensuing fiscal year and a five-year capital expenditures budget. Copies of these proposed budgets shall be distributed to each Councilman at least sixty-five (65) days before the close of the current fiscal year.

Section FC5-7. Contents of budget.

The budget shall provide a complete financial plan for the budget year. It shall contain in tabular form a general summary; detailed estimates of all anticipated revenues applicable to proposed expenditures; all proposed expenditures; and, in parallel columns opposite the items of anticipated revenues and proposed expenditures, the comparable figures for the current fiscal year. Separate sections of the budget shall show the figures for utility receipts and expenditures. Separate provisions shall be included in the budget for the following: interest on public debt; statutory expenditures; judgments; emergency notes; deficits from operations of public utilities; administration of city offices; contingent expense; and capital projects.

Section FC5-8. Budget a public record.

The proposed budget and all supporting data shall be a public record, and a copy thereof shall be posted on the bulletin board in the municipal offices. Sufficient copies of the budget, when approved, shall be prepared for distribution to all councilmen and for interested persons.

Section FC5-9. Hearing and final passage of budget.

A public hearing shall be held on the proposed budget on the second Tuesday in May in each year. At the conclusion of the public hearing final action on the budget may be taken, and after the budget has been approved, the annual tax levy shall be made and any changes required in utility charges or special assessments. A favorable vote of a majority of the total membership of the Council shall be necessary for the adoption of the budget. The approved budget shall be filed in the minutes of the Council and a certified copy filed in the office of the City Treasurer. Copies shall be made and distributed to city officials and made available to interested members of the public.

Section FC5-10. Appropriations established by budget.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named. Upon adoption of the budget, the City Treasurer shall prepare quarterly allotments of the

amounts appropriated, which shall be reported to the Council on the second Tuesday of July in each fiscal year. After approval by the Council, no expenditures shall be authorized by any disbursing officer of the City of Fruitland except as covered by such quarterly allotment or upon the specific approval of the Council.

Section FC5–11. Contingency Fund.

The Contingency Fund authorized by § FC5–7 shall be under the control of the Council President. Money from the fund may be allocated by him to the various offices, departments or agencies of the city as he deems advisable, or he may authorize its expenditures for public purposes not anticipated at the time of budget adoption.

Section FC5–12. Unspent fund balances.

On the second Tuesday in May in each fiscal year, the Treasurer shall report to the Council any unencumbered balances in the funds appropriated to any office, department or agency. Such funds may then be transferred by resolution of the Council to any other office, department or agency or to the Contingency Fund. All unspent and unencumbered appropriations shall lapse at the end of the budget year and shall be included in the next years' [year's] budget as surplus.

Section FC5–13. Public utility revenues.

All revenues from public utility operations by the city shall be kept separate from other city funds. These revenues shall be used for current operating expenses of these utilities, replacement and extension of facilities and payment of interest and principal on bonds issued for these purposes. If these revenues are not sufficient, the deficit must be made up from the general funds of the city. In the event any utility bond issue requires that certain revenues be segregated from other utility funds and dedicated to the payment of principal and interest of that bond issue, a separate account shall be maintained as required by said bond issue.

Section FC5–14. Property subject to taxation; assessment; limitation on tax rate.

All assessed and non–tax–exempt property within the limits of the City of Fruitland, or which may have a situs there by reason of the residence of the owner therein, shall be subject to taxation for municipal purposes, and the assessment for such purpose shall be the same as that for state and county purposes. The City of Fruitland shall not tax property for all general purposes other than servicing bonds or notes at a rate greater than ten dollars (\$10.00) on each one hundred dollars (\$100.00) of assessed valuation. (Res. No. 2–92, April 1, 1992; Res. No. 1–99, 2–2–00.)

Section FC5–15. Taxable year; when taxes due and payable; when in arrears; and penalties for and collection of overdue taxes.

The taxable year shall be the fiscal year beginning on July 1 of each year. Taxes shall be overdue and in arrears on the first day of the succeeding October and shall bear such interest and

other late charges as the general laws of Maryland shall provide. All taxes not paid and in arrears after January 1 of the fiscal year for which assessed shall be collected as the general laws of Maryland shall provide. (Res. No. 3–92, June 3, 1992.)

Section FC5–16. Industrial, commercial and warehousing exemptions.

(1) To encourage industrial expansion in the City of Fruitland, or to encourage the annexation of adjacent industrial plants and/or sites into the city, the Council is authorized to exempt from taxation for corporate purposes the buildings owned and operated by any manufacturing company or association newly established within or newly annexed within the limits of the city. Such exemption may also be granted by the Council for newly enlarged, remodeled or rehabilitated buildings to the extent that the assessment exceeds the assessable basis of any building or structure on which an exemption has expired. Such exemptions shall in no case exceed a maximum of five (5) years.

(2) To encourage industrial expansion in the City of Fruitland, all manufacturing machinery shall be totally exempt from taxation by the City of Fruitland. For the purposes of this section, manufacturing machinery shall be defined to include all machinery and equipment at a fixed location within a manufacturing plant which performs a function in the process of turning the raw material into the finished product which shall include canning, bottling, and labeling machinery and equipment, but shall not include machinery or equipment used for transportation of products or raw materials unless said transportation equipment forms an integral part of an assembly line.

(3) To encourage industrial and warehousing expansion in the City of Fruitland, all tangible personal property held within the limits of Fruitland, the sole purpose of which is to be incorporated into and become a part of a manufactured product, whether or not such product shall be manufactured within the limits of Fruitland shall be totally exempt from taxation by the City of Fruitland.

(4) To encourage commercial development within the limits of Fruitland, or to encourage the annexation of adjacent shopping centers and/or sites into the city, twenty-five percent (25) of the assessed valuation of the goods, wares and merchandise held within the limits of Fruitland for resale, either wholesale or retail, shall be exempt from taxation during the fiscal year beginning on July 1, 1983; and thirty-five percent (35) of the assessed valuation of such goods, wares and merchandise shall thereafter be exempt from taxation by the City of Fruitland. (Res. No. 1–83, April 27, 1983.)

Section FC5–17. Power of city to borrow by issuance and sale of bonds.

A. The City of Fruitland shall have the power to borrow on the faith and credit of the city from time to time as may be deemed necessary for the general welfare of the city and its general corporate purposes; and without limiting the generality of the foregoing, it shall have the power to borrow for the encouragement of industrial development and expansion in the City of Fruitland by providing plants or necessary facilities therefor, which hereby is declared to be an essential public and governmental purpose and necessary for the general welfare of the city. The

city may issue and sell bonds to evidence such borrowing in accordance with § FC5–18 of this Charter or with state law; and such bonds may be secured by a pledge of the full faith and credit of the city or of the revenues derived from the particular project, undertaking or property in connection with which such bonds were authorized and issued or by a pledge both of the city's full faith and credit and such revenues.

B. In addition, when the City of Fruitland has received a funded commitment from the government of the United States or of the State of Maryland, or any agency of either, for the loan, gift or grant of any funds to be received at a time certain or upon the request of the City Council of Fruitland, the City of Fruitland may, upon passage of a resolution of the City Council of Fruitland with the affirmative votes of a majority thereof, borrow upon the full faith and credit of the City of Fruitland from time to time not to exceed eighty-five percent (85) of the proceeds of such loan, gift or grant and may issue its notes to evidence such borrowing and pay such rate of interest on the sums borrowed as shall be authorized by the resolution of the City Council; provided, however, that all such sums so borrowed shall be repaid in full out of the proceeds of the loan, gift or grant aforesaid.

Section FC5–18. Regulations as to bonds and bond issues.

A. *Approval of issue.* All proposed bond issues shall be approved by the Council.

B. *Form, interest, term, etc., of bonds.* Bonds may be either coupon or registered bonds. All bonds shall have serial maturities or have the benefit of a sinking fund sufficient to retire the issue at maturity. They shall be issued in such denominations, at such rates of interest and for such period of the time as the Council may decide.

C. *Signing, etc., of bonds.* All bonds shall be signed by the President of the Council, the seal of the city attached thereto and attested by the City Clerk, except that the signature of the Council President and said seal may be facsimiles engraved, printed or otherwise reproduced.

D. *Sale of bonds.*

(1) The City Treasurer shall sell bonds by sealed binds [bids] after giving two (2) weeks' notice in one (1) or more newspapers of general circulation in the City of Fruitland and in such other publications as the Council may decide, except that in the case of the city's revenue bonds and/or of any bonds for which no sealed bid was received, the City Treasurer may, with the express advance permission and authority of the Council in each particular instance, offer and sell such revenue bonds at private sale, after such negotiation with one (1) or more prospective purchasers and after such notice of the proposed sale, to the general public or to one (1) or more prospective purchasers, by mail or published advertisement, as the Council in its discretion may approve and authorize. The sale of all bonds shall be carried on under such rules and regulations as the Council may prescribe. No bonds shall be sold except at prices approved by the Council and at not less than their face amount.

(2) Nothing hereinbefore set forth in this subsection shall, however, prevent the City Treasurer from selling bonds to the United States of America or to the State of Maryland

or to any agency of either of them duly authorized to purchase municipal bonds, at private sale upon the same terms and conditions as shall govern other purchases of municipal bonds by the United States of America or the State of Maryland or the duly authorized agency of either of them; nor shall the City Treasurer be required to advertise for and to take bids on any bond issue before selling the same at private sale to the United States of America or the State of Maryland or any agency of either of them.

E. *Custody and delivery of bonds.* When signed and attested, the bonds shall be delivered to the City Treasurer, who shall be responsible for their safekeeping and delivery to the purchaser.

F. *Disposition of proceeds of sale.* Proceeds from the sale of all bonds shall be deposited by the City Treasurer to the credit of the City of Fruitland in such account or accounts and under such rules and regulations as the Council shall prescribe.

G. *Effect of Article 43 of the Annotated Code of Maryland.* No provision or limitation contained in this Charter shall apply to or affect the issuance and sale of bonds by the city pursuant to the provisions of Article 43 of the Annotated Code of Maryland, titled "Health," or any amendments thereto.

G-1. *Effect of Article 41, sections 226(a) through 266(i) of the Annotated Code of Maryland.* No provision or limitation contained in this charter shall apply to or affect the issuance and sale of bonds by the city pursuant to the provisions of Article 41, sections 266(a) through 266(i) of the Annotated Code of Maryland, Title "Maryland Economic Development Bond Act", or any amendments thereto.

H. *Payment, effect, terms, conditions, security, etc., of revenue bonds.* Revenue bonds issued and sold by the City of Fruitland, whether or not the full faith and credit of the city has been pledged, shall be made payable, both as to principal and interest, solely from the income, rentals, proceeds, revenues and funds of the city derived from the particular project, undertaking or property in connection with which such bonds were authorized and issued, except that payment of such bonds, both as to principal and interest, may be further secured by the pledge of any part or all of any taxes in the form of special assessments upon property in a limited and determinable area connected or associated with or specially benefited by the particular project, undertaking or property, or by a mortgage of all or any part of such particular project, undertaking or property, if title thereto is held by the city, and except that, in case of an issuance of revenue bonds for constructing, improving, equipping and acquiring parking facilities of every type and description (which facilities may include roads, streets, runways, waterways and bridges facilitating the movement of all traffic in the vicinity of parking areas), such ordinance and any trust indenture or mortgage executed pursuant thereto shall establish the security for such revenue bonds, which security may include, in addition to other security permitted by law, the assignment and pledge, in whole or in part, of rates, rentals, fees, charges or other revenues, then being or thereafter to be received by the city from parking facilities, including but not limited to collections from parking meters on public thoroughfares; and an agreement by the city to pay any deficiency in the debt service requirements of such revenue bonds for any year in which there is a deficit, provided that any such payment under any

agreement or agreements shall not exceed, but shall be limited and restricted to, the sum which would be received from a tax of two cents (\$0.02) per hundred dollars on the assessable basis of the city for any one (1) year. In addition, the city may enter into a trust agreement or trust indenture with any bank or trust company authorized to do business in Maryland and may make in such instrument such covenants and commitments as may be required by any purchaser for the adequate security of said revenue bonds. Revenue bonds issued under this section shall not constitute an indebtedness within the meaning of § FC5–20 hereof and are hereby specifically exempted from the restrictions contained in Sections 9, 10 and 11 of Article 31 of the Annotated Code of Maryland, 1957 Edition, as amended. Revenue bonds issued under this section shall be authorized by ordinance and issued in one (1) or more series and bear such date or dates, mature at such time or times, bear interest at such rate or rates, not exceeding six per centum (6%) per annum, be in such denomination or denominations, be in such form either with or without coupons or registered, carry such registration privileges, have such rank or priority, be executed in such manner, be payable in such place or places; be subject to such terms of redemption (with or without premium), be secured in such manner and have such other characteristics as may be provided by such ordinances or the trust indenture or mortgage executed pursuant thereto and, in case of an issuance of revenue bonds for industrial development, shall set forth the precise terms and conditions upon which the city shall have agreed to provide a plant or plants or other necessary facilities therefor, as provided by the Council, which terms and conditions may include:

(1) Acquisition, construction and ownership by the city or by a public nonprofit corporation of all such facilities and the lease thereof to, or installment purchase thereof by, the industry.

(2) The acquisition, construction and ownership of all such facilities by the industry, in whole or in part by use of funds supplied by the city or by a public nonprofit corporation and secured by appropriate mortgage or other security instrument payable in installments over a period of years.

(3) The payment by the industry of an annual sum in lieu of taxes on such facilities if such facilities of same are owned by the city or by a public nonprofit corporation.

(4) Any other terms, provisions and restrictions which the Council may determine to be necessary or appropriate in the circumstances. (Res. No. 2–83, 8–3–83.)

Section FC5–19. Notes issued in anticipation of revenue.

The City of Fruitland shall have the power to borrow for current operations in any budget year an amount not to exceed twenty–five percent (25%) of the revenues to be collected for that budget year, giving tax anticipation notes for such borrowings. These notes may be renewed from time to time but must be finally paid off by the end of the budget year next succeeding the one which the borrowing took place. In addition, no original borrowing, nor any renewal thereof, shall be made for an amount that will bring the total outstanding tax anticipation indebtedness against any budget year in excess of fifty percent (50%) of the revenues of that budget year uncollected at the time the borrowing or renewal takes place. All notes or other evidences of

indebtedness issued under the provisions of this section and the interest thereon shall be paid from the general tax levy of the city. Levying or collecting any special tax for the payment of these notes or other evidences of indebtedness is expressly prohibited. The notes or other evidences of indebtedness issued under this section shall be sold in the manner provided by the Council.

Section FC5-20. General obligation indebtedness.

The issuance and sale of general obligation bonds; bond, loan or gift anticipation notes; or tax anticipation or emergency notes, shall constitute a pledge of the full faith and credit of the city to the prompt payment, when due, from ad valorem taxes and such other revenues as may be described in the authorizing ordinance or ordinances, of the principal of and interest on such bonds or notes. The maturing principal of and interest on any general obligation bonds may be paid in whole or in part from the proceeds of benefit assessments or other revenues; but, in any event, the Council shall, if and when necessary, annually levy, upon all property within its corporate limits subject to ad valorem taxes, taxes sufficient to provide for the payment of the maturing principal and interest on any such bonds or notes, without limitation of law, and the issuance and sale of any such bonds or notes shall constitute a covenant to that effect.

Section FC5-21. Emergency appropriations and funding thereof.

At any time in the budget year the Council may, pursuant to this section, make emergency appropriations to meet a pressing need for public expenditures, for other than a regular or recurring requirement, to protect the public health, safety and welfare. Such appropriation shall be by resolution adopted by the favorable votes of at least four-fifths (4/5) of the members of the Council. The total amount of any emergency appropriations made in any budget year shall not exceed five percent (5%) of the total appropriations made in the budget year for that year. In the absence of unappropriated available revenues to meet emergency appropriations, the Council shall in its resolution authorize the issuance of notes, each of which shall be designated "emergency note," but all such notes or renewals thereof shall be paid not later than the last day of the fiscal year next succeeding the fiscal year in which the emergency appropriation was made. They shall be sold in the manner provided by the Council.

Section FC5-22. Other forms of borrowing permitted.

A. The City of Fruitland shall have the power from time to time as may be deemed necessary for the general welfare of the City and its general corporate purposes to borrow money in amounts not to exceed Five Million Dollars (\$5,000,000.00) per transaction, to be repayable over a term not to exceed thirty (30) years by the execution of a Note, Promissory Note, Mortgage or Deed of Trust, or other such instrument evidencing debt as may be approved by the City Council in the following manner:

(1) *By Resolution:* The City Council may, by simple Resolution taken upon one reading and without requiring advertising or public hearing, authorize the borrowing of funds for specified capital improvements, capital projects, the purchase of vehicles, the purchase of equipment, or some specified and specific purpose as deemed appropriate by the City Council,

PROVIDED that the purpose for which the funds will be borrowed and spent and the maximum amount to be borrowed and spent along with a maximum interest rate and a maximum repayment term of years have been set forth in a previously enacted Budget Ordinance.

(2) *By Ordinance:* The City Council, may by Ordinance, authorize the borrowing of funds for specified capital improvements, capital projects, the purchase of vehicles, the purchase of equipment, or some specified and specific purpose as deemed appropriate by the City Council, PROVIDED that the purpose for which the funds will be borrowed and spent and the maximum amount to be borrowed and spent along with a maximum interest rate and the maximum repayment term of years are set forth in the Ordinance and the same is introduced and read, and an advertised public hearing is held before such passage. The Ordinance procedure must be used whenever the Resolution procedure set out in A(1) above does not apply.

B. Whenever the City Council shall authorize the borrowing of funds and the spending of the same pursuant to this Section, whether by Resolution or by Ordinance, it shall set forth: (1) the principal amount of the loan; (2) the term of years upon which it shall be repaid; (3) the terms of that repayment, including any balloon payment, call or other such device permitting amortization over a longer period of time than the length of the Note with a lump sum payment at a designated point; (4) shall state whether the full faith and credit of the City is to be pledged; (5) the purpose for which the loan is being made; and (6) shall designate the person authorized to execute the Note or other evidence of indebtedness by name, office or title.

C. In the event that the City Council shall authorize the borrowing of funds secured by the issuance of a Mortgage, Deed of Trust, Financing Statement or other such security instrument, in addition to those items required to be set forth in paragraph B above, the City Council shall also identify the property that shall be subject to the Mortgage, Deed of Trust or Financing Statement.

D. The City Council shall be authorized and empowered to approved [approve] by Resolution or Ordinance, as may be provided herein, loans upon terms and conditions as have been reached through a negotiation by the City with financial institutions, which shall include, but not be limited to, local, regional and national banks, savings and loans, savings banks, insurance companies and other such lenders, without the requirement that such loans be placed for public bid.

E. Nothing contained herein shall diminish, abrogate nor limit the City's power to borrow money as set forth elsewhere in Article V of the Fruitland Charter, or in the provisions of Article 23A, or any other provisions of the Maryland Code of 1957, as amended, or elsewhere in the Maryland Code.

F. Nothing contained herein shall in and of itself authorize [the] City to abrogate, limit or diminish budgetary requirements of the Charter or the Maryland Code, other than permitting those procedures set forth herein as a method of financing. (Res. No. 1-05, 9-21-05.)

ARTICLE VI

City Manager

Section FC6-1. Creation of office and appointment.

When hereafter provided by resolution of the City Council, there shall be a full-time City Manager who shall be appointed by the Council upon the recommendation of the Council President.

Section FC6-2. Term, qualifications and salary.

The City Manager shall have had training and/or experience in the field of public administration and shall serve at the pleasure of the Council. His salary shall be determined by the Council but may not be reduced during his term of service.

Section FC6-3. Powers and duties generally.

The City Manager shall represent the President of the Council and the Council in all matters of day-to-day administration. In this connection, he shall exercise all administrative powers and authority delegated to him by the Council President, the Council Treasurer or the entire Council. In addition to his administrative duties, the City Manager may be designated as a department head or as Deputy Treasurer.

ARTICLE VII

City Clerk

Section FC7-1. Appointment and term.

The City Clerk shall be appointed by the Council upon recommendation of the President thereof and serve at the pleasure of the Council. The Clerk's salary shall be determined by the Council.

Section FC7-2. May be Deputy Treasurer.

The City Clerk may also hold the position of Deputy Treasurer of the city.

Section FC7-3. Duties generally.

The City Clerk shall attend every meeting of the Council and keep a full, accurate and indexed account of the proceedings of the Council. He shall maintain an ordinance file containing all effective ordinances and shall have available for public use up-to-date copies of all ordinances affecting planning, zoning and the construction and reconstruction of buildings and structures within the city. He shall attest the passage of all ordinances and affix the city seal thereto. He shall keep such other records and perform such other duties as may be ordered by the Council.

ARTICLE VIII Department of Law

Section FC8-1. Establishment, etc., appointment, terms and compensation of City Solicitor.

There shall be a Department of Law headed by the City Solicitor. The City Solicitor shall be appointed by the Council upon the recommendation of the President. He shall serve at the pleasure of the Council. His compensation shall be determined by the Council.

Section FC8-2. Qualifications of City Solicitor.

The City Solicitor shall be a member of the Bar of the Circuit Court for Wicomico County, who has resided in and practiced law in Wicomico County for not less than two (2) years preceding his appointment.

Section FC8-3. Duties of City Solicitor generally.

A. *Legal advisor of city.* The City Solicitor shall be the legal advisor of the City of Fruitland, its departments and commissions, and shall have general supervision and direction of all legal business of the city.

B. *Preparation and trial of suits, etc.* The City Solicitor shall have charge of the preparation and trial of all suits, actions and proceedings of every kind to which the city shall be a party in any court, state or federal, and of all actions brought by the city to enforce the ordinances of the Council or to punish violations thereof.

C. *Written advice on request of Council, etc.* Upon the request of the Council, any member thereof or any officer of the city, he shall give written advice or opinions on all questions of law which may be referred to him.

D. *Preparation of ordinances.* He shall prepare ordinances for introduction into the Council.

E. *Preparation of contracts, etc.* He shall prepare, examine and approve as to form and legal sufficiency all the contracts, specifications, deeds and other legal papers of the city.

ARTICLE IX

Department of Public Works

Section FC9-1. Establishment; appointment, term and compensation of Director; division of Department into bureaus.

There shall be a Department of Public Works headed by a Director of Public Works. The Director of Public Works shall be appointed by the Council upon recommendation of the President. His compensation shall be determined by the Council. For convenience of administration, the Council President and Director of Public Works may divide the Department of Public Works into bureaus, such as a Bureau of Engineering, a Bureau of Streets, a Bureau of Sewer and Water and a Bureau of Sanitation and other similar bureaus.

Section FC9-2. Qualifications and duties of Director of Public Works generally.

A. *Qualifications.* The Director of Public Works shall hold a bachelor's degree in engineering and/or have practical experience in the administration of public works, municipal engineering problems and duties.

B. *Supervisory functions.* He shall have general supervision and direction over the planning, construction, operation, maintenance and repair of the public ways, sidewalks, gutters, municipally operated utilities and services and such other public works or improvements as the city may undertake.

C. *Recommendations.* He shall make annual recommendations for public works or improvements to be included in the capital improvements budget.

D. *Engineering advice.* He shall supply engineering advice to the Council or other officers of the city when they request it.

E. *Additional duties.* He shall perform such other duties as the President of the Council or the Council may from time to time require.

ARTICLE X

Police Department

Section FC10-1. Establishment, etc.; appointment and compensation of Chief of Police.

There shall be a Police Department headed by a Chief of Police. He shall be appointed by the Council upon recommendation of the President and shall serve at the pleasure of the Council.

Section FC10-2. Duties, etc., of Chief of Police.

Under the supervision of the Council President, the Chief of Police, in person or through his subordinates, shall do the following:

A. *Enforcement of laws and ordinances and maintenance of order, etc.* He shall enforce the resolution and ordinances of the city and the laws of the State of Maryland relating to crimes and misdemeanors committed in the city. He shall maintain public order, subdue riots, disorders and disturbances of the peace and shall take into custody all persons so offending against the public peace. He shall arrest all persons who shall obstruct or interfere with the execution of his duties.

B. *Attendance at court, etc.* He shall attend upon any courts hearing charges brought by him for the violation of or enforcement of any such resolutions, ordinances or laws and shall, promptly and faithfully execute all writs and process issuing from said courts relating to said charges.

C. *Traffic control.* He shall be in charge of traffic control in all emergency situations, other than those which such control may be undertaken by other appropriate Police or law enforcement agencies, the National Guard or such other military organization, the Wicomico County Fire Police or other fire-related agencies. He shall, upon Resolution or Ordinance by the City Council of the City of Fruitland, and in consultation with the Director of Public Works, determine the signage necessary and the exact location of the same in order to implement such Ordinance or Resolution; and further, shall regulate and control the movement or parking of motor vehicles and bicycles within the City under emergency conditions. Nothing herein is intended to prohibit the Chief of Police nor any Fruitland Police Officer from acting to direct traffic movement and parking in the normal and customary exercise of the duties of a Police Officer.

D. *Supervision.* He shall supervise the work of all police officers or clerical assistants to his department, shall regulate their hours of employment, be responsible for their training and discipline and shall, within the limitations prescribed by the Council by ordinance, be responsible for their rating and promotion or demotion.

E. *Additional duties.* He shall perform such other lawful duties as are imposed upon him by the Council or the President thereof.

Section FC10-3. Officers and employees.

The number of policemen and the ranks and grades thereof shall be set by the Council. Appointment of policemen shall be made by the Council President upon recommendation of the Chief of Police. All policemen shall have the powers of constables in this state.

Section FC10-4. Special policemen.

The President of the Council or, in his absence or disability, the President Pro Tempore of the Council may appoint policemen, with all the powers of regular policemen, for a term not exceeding thirty (30) days in cases of emergency. The appointing authority shall determine the compensation of special policemen which shall not exceed that of regular police officers.

ARTICLE XI

Department of Parks and Public Property

Section FC11-1. Establishment, appointment, term and compensation of head; duties, etc.

The City of Fruitland, when the Council deems it advisable, may establish a Department of Parks and Public Property. The head of this department shall be appointed by the Council upon recommendation of the Council President. His compensation shall be set by the Council. Subordinate personnel shall be appointed by the Council President upon recommendation of the department head. The Department of Parks and Public Property shall supervise and control all parks, squares, playgrounds, zoological and botanical gardens owned or operated by the city. It also shall supervise the management of the public lands and buildings owned by the city.

Section FC11-2. Trust property.

The City of Fruitland may receive outright or in trust all moneys or other property which may have been or may hereafter be bestowed upon the city by will, deed or any other form or conveyance; and, if received in trust, the city may hold and administer the same for any lawful purpose.

Section FC11-3. Protection and preservation of public property.

The City of Fruitland shall have the power to do whatever may be necessary to protect public property and to keep all public property in good condition.

ARTICLE XII

Purchasing, Contracts and Surplus Property

Section FC12-1.

Subject to the limitations and restrictions contained in this Article and elsewhere in this Charter, the City Council shall, by Ordinance, adopt a Purchasing Policy for the City.

A. The Purchasing Policy shall set forth the rules and regulations for the purchasing of supplies, services, materials and equipment and letting of contracts for construction of public improvements and provision of goods and services to the City.

B. The Purchasing Policy shall set forth the rules and regulations for the implementation of bidding procedures and other purchasing and/or contracting mechanisms designed to facilitate the purchasing of supplies, services, materials and equipment and the letting of contracts at the lowest and yet the best price.

C. The Purchasing Policy shall set forth, by title, an officer or employee of the City who shall oversee and direct the Purchasing Policy. (Res. No. 1-01, 1/30/02.)

Section FC12-2.

All expenditures for supplies, services, materials, equipment or contractual services involving more than Fifteen Thousand Dollars (\$15,000.00), shall be made only upon written contract executed only after advertisement for and taking of sealed bids as shall be prescribed by ordinance. (Res. No. 1-01, 1/30/02.)

Section FC12-3.

Contracts which may be let pursuant to Section FC12-2, shall be awarded to the responsive bidder who offers the lowest and best bid. In determining the lowest and best bid, the City may consider the quality of the goods and work, time of delivery or completion, responsibility of the bidders, past history or experience with the bidder, amount of the bid, and the best interest of the City and its citizens. (Res. No. 1-10, 1/30/02.)

Section FC12-4.

All such written contracts shall be first approved by the City Council. (Res. No. 1-01, 1/30/02.)

Section FC12-5.

Nothing contained in this Article shall prohibit the City from retaining the right to reject all bids and readvertise, nor from waiving bidding formalities, nor from rejecting all bids and amending the specifications or quantities or canceling the project or purchase altogether, nor from entering into negotiations with one or more of the responsive bidders. (Res. No. 1-01, 1/30/02.)

Section FC12-6.

The City Council may, in the Purchasing Policy, or in separate Ordinance exempt from the complete bidding process the following types and classes of expenditures as it shall deem reasonable and appropriate.

A. Emergency purchases wherein the need has suddenly and unexpectedly arisen and requires immediate action in the public interest.

B. Services requiring special training and licensing or involving a confidential or ongoing relationship for professional services, including but not limited to legal, accounting, engineering and building inspection services.

C. Contracts for insurance or for public utility services.

D. Required fees such as recording charges, court costs and other regular fees and charges required by general law to be paid to particular persons or public officials; charges for

the printing of public notices and advertisement required by law; postage, payroll taxes and other applicable governmental charges or levies; and travel and other like expenses, membership dues and subscriptions to publications.

E. *Real property.* Contracts for the purchase, exchange, renting, leasing or acquisition of real property by the City and contracts for sale, exchange, renting, leasing or other disposition of surplus real property owned by the City.

F. Contracts for purchase of materials or equipment for which there is only one (1) known supplier and no reasonable and practical alternative. In determining whether a potential alternative supplier is reasonable and/or practical and in the best interest of the City, the City may take into account the need or desirability for the newly purchased materials, equipment, supplies or services to coordinate with existing materials, equipment, supplies or services; the practicality of coordinating the work, structure, appearance, services, archives, history, training and existing service agreements between existing vendors and other potential vendors who may bid on such project if it is not determined to be a sole source of supply; costs savings available; significant time savings and man hour savings available; whether there is a need for additional and/or new training; and whether the proposed purchase involves a technological consideration for maintaining a relationship with an existing vendor or for purchasing all components from one vendor.

G. The City Council may, by passage of an Ordinance, set forth the criteria by which it may elect to exempt from the competitive bidding process the purchase of materials, supplies, services or equipment which are offered for sale to the City at a price equal to or less than that price which the offering vendor contracted to sell the same, or substantially the same, materials, supplies, services or equipment to: (i) The City pursuant to prior bid; (ii) another governmental unit, within or without the state of Maryland pursuant to a bid or negotiated price; or (iii) the public or a segment thereof at a price or on terms which are demonstrably better than can be reasonably anticipated to be received by bid. (Res. No. 1-01, 1/30/02.)

Section FC12-7.

Subject to limitations and restrictions contained in this Article or elsewhere in this chapter, the City Council shall, by ordinance, adopt a policy for the disposition of surplus property. Surplus, obsolete or unused City property may be sold or otherwise disposed of only after approval by the City Council. Such property shall be sold for the City's account, subject to the applicable provisions of this Article. If such property is not suitable for sale, it may be abandoned, destroyed or otherwise disposed of as determined by the City Council. This section shall not apply where contrary or different provisions are included in the laws, rules or regulations governing any program or project financed by Federal, State or County funds or where necessary to comply with Federal, State, County or City laws, statues [statutes], regulations or ordinances. (Res. No. 1-01, 1/30/02.)

ARTICLE XIII

Public Ways, Sidewalks and Subdivisions, Etc.

Section FC13-1. Definitions.

A. The term “public ways” as used in this Charter shall refer to all streets, avenues, roads, highways, public thoroughfares, lanes and alleys which at present are or in the future may be within the City of Fruitland.

B. The term “sidewalk” as used in this Charter shall include all public walkways and any curb and gutters adjacent thereto.

Section FC13-2. Control.

The City of Fruitland shall have control of all public ways of the city except such as may be under the jurisdiction of the State of Maryland. Subject to the laws of the State of Maryland and this Charter, the City of Fruitland may do whatever it deems necessary to establish, operate and maintain in good condition the public ways within the city.

Section FC13-3. Public ways.

The City of Fruitland shall have the power:

A. To establish and change from time to time the grade lines, width and construction materials of any public way or part thereof.

B. To grade, lay out, open, extend and make new public ways.

C. To grade, straighten, widen, alter, improve or close any existing public way or part thereof.

D. To pave, surface, repave or resurface any public ways or part thereof.

Section FC13-4. Sidewalks.

The City of Fruitland shall have the power:

A. To establish and change from time to time the grade lines, width and construction materials of any sidewalk or gutter or part thereof.

B. To grade, lay out, construct, reconstruct, pave, repave, repair, extend or otherwise alter the sidewalks along any public way or part thereof.

C. To install, repair and maintain curbs and/or guttering along any public way or walkway or part thereof.

D. To assess the cost of any projects under this section on the abutting property in the manner provided herein in § FC13–5 of this Charter.

Section FC13–5. Construction by property owners.

The City of Fruitland shall have the power to require and order the owner of any property abutting on any public way to perform any projects under § FC13–4 of this Charter at the owner's expense according to reasonable plans and specifications established by the Department of Public Works. If, after due notice and hearing, the owner fails to comply with the order within a reasonable time, the city may do the work, and the expense shall be a lien on the property and shall be collectible in the same manner as are property taxes.

Section FC13–6. Other projects.

The City of Fruitland shall have the power:

A. To lay out, construct and maintain public squares, plazas, hiking trails, bridle paths, watercourses and drains.

B. To remove trees, posts and other obstructions when necessary to carry out any projects described in this Article.

Section FC13–7. Acquisition of property.

For the purpose of carrying out any of the work or projects provided for in this Article, the city shall have the power to purchase or condemn any property it deems necessary as hereinafter provided. Any of these projects shall be considered as public improvements within the meaning of § FC16–1 of this Charter; and any condemnation proceedings shall be carried on in accordance with said section.

Section FC13–8. Subdivision control.

The City of Fruitland shall have the power to regulate all subdivisions or resubdivisions of land within the city. For the purpose of making this power effective, no plat or plan of any subdivision or resubdivision within the city shall be recorded among the land records of Wicomico County by the Clerk of Circuit Court for Wicomico County until the plat or plan has been approved in writing by the Fruitland Planning Commission and such approval endorsed on said plat or plan. The Council shall have the power to prescribe rules and regulations governing the filing of plats and plans, the erection of permanent markers wherever necessary, the supplying of necessary topographical data, the layout and construction of proposed streets, the establishment of building lines and zoning regulations and such other things as it may deem necessary for the proper control of subdivisions or resubdivisions. No public way shall be accepted for public use and ownership unless the plat and location thereof shall have been submitted to and approved in writing by the Fruitland Planning Commission.

Section FC13–9. Unauthorized changes.

No public way, sidewalk, curb or gutter shall be graded or the grade changed, nor shall any other work be done, except in accordance with plans approved by the Department of Public Works. Any person violating the provisions of this section shall be guilty of a misdemeanor and, in addition, may be required to tear out and redo the work at his own expense in order to comply with plans approved by the Department of Public Works.

Section FC13–10. Bonds.

The City of Fruitland shall have the power to issue bonds in accordance with the provisions of § FC5–17 of the Charter to finance work on public ways, sidewalks, curbs, gutters or other projects undertaken under the provisions of this Article.

Section FC13–11. Bridges.

The city shall in no manner be responsible for the maintenance or control of any bridge now or hereafter located within the city limits of Fruitland which is now under the control of the Council or Commissioners of any county or that of the State of Maryland.

ARTICLE XIV
Water, Sewers and Garbage

Section FC14–1. Powers.

The City of Fruitland shall have the power:

- A. To construct and operate a municipal water system, including wells, lakes, dams and treatment facilities, whether located within or without the city limits.
- B. To construct and operate a sanitary sewerage system, a sewage treatment plant and stormwater sewers.
- C. To construct and operate a garbage incinerator plant.
- D. To construct and operate a recycling plant for the processing and conversion into usable material of any type of municipally collected waste, whether in solid, liquid or gaseous state.
- E. To construct, maintain, reconstruct, enlarge, alter, repair, improve or dispose of all parts, installations and structures of the above systems and plants.
- F. To have surveys, plans, specifications and estimates made for any of the above plants or systems or parts thereof or the extension thereof.

G. To do such things as may be necessary for the efficient operation and maintenance of the above plants and systems.

Section FC14-2. Jurisdiction over plants and systems.

The construction, operation, maintenance and repair of all plants and systems mentioned or described in § FC14-1 and all other matters pertaining thereto shall be under the direction and supervision of the Department of Public Works.

Section FC14-3. Placing structures in public ways.

Any public service corporation, company or individual, before beginning any construction or placing or changing the location of any main, conduit, pipe or other structure in the public ways of the city, shall submit plans to the Director of Public Works and obtain his written approval. Any public service corporation, company or individual violating the provisions of this section shall be guilty of a misdemeanor. If any unauthorized main, conduit, pipe or other structure shall be located in any of the public ways of the city, the Department of Public Works may order it removed by the owner thereof.

Section FC14-4. Obstructions.

All individuals, firms or corporations having mains, pipes, conduits or other structures in, on or over any public way which impede the establishment, construction or operation of any municipal system or installation shall, upon reasonable notice, remove or adjust the obstructions to the satisfaction of the Director of Public Works. If necessary to carry out this section, the city may use its condemnation powers to remove or relocate the obstructions.

Section FC14-5. Entering on county or state public ways.

When the city desires to enter on any county-owned or -maintained public way for the purpose of installing or repairing any equipment or doing any other things necessary to establish, operate and maintain any municipal system or installation provided for in this Charter, the city shall notify the county of its intent and comply with any reasonable rules and regulations established by the county and must leave the public way in a condition not inferior to that existing before. When the city desires to enter on any state highway for the purpose aforesaid, it must first comply with the pertinent provisions of Article 89B of the Annotated Code of Maryland.

Section FC14-6. Acquisition of property.

The City of Fruitland shall have the power to acquire by gift, purchase, lease or condemnation any land, improvements, rights-of-way, sources of water or other property of any kind or interest therein or franchise connected therewith within Wicomico County, Somerset or Worcester Counties, whether used for public, quasi-public or private purposes, either in fee or as an easement, for the purpose of establishing, operating, extending or maintaining any municipal system, plant or installations provided for in this Charter. Any condemnation proceedings shall

be carried on in accordance with the provisions of Article XVI of this Charter, and the activities described in this Article shall be considered as public improvements within the meaning of Article XVI of this Charter.

Section FC14–7. Connections.

The City of Fruitland shall provide a connection at reasonable cost to water and sewer mains for all property abutting on any public way in which a sanitary sewer or water main is laid, and such reasonable cost shall include the cost of repaving or resurfacing the public way. When any water main or sanitary sewer is declared ready for operation by the Department of Public Works, all abutting property owners, after reasonable notice, shall connect all fixtures with the water or sewer main, except those water fixtures connected only to a private well and used for lawn sprinkling or civil defense shelters exclusively. The Director of Public Works may require that if existing fixtures are unsatisfactory, new ones be installed and may require that all cesspools, sink drains and privies be abandoned and left in such a way as not to injure public health. All wells found to be polluted or a menace to health by the Director of Public Works shall be abandoned and closed. Any violation of this section shall be a misdemeanor.

Section FC14–8. Revolving fund.

To facilitate connections with water and sewer mains, the Council may establish a revolving fund of not more than ten percent (10%) of the annual water and sewer service charges to finance the installation of the minimum number of fixtures in residences or dwellings required by the Plumbing Code of the city. Should any property owner for financial or other reasons be unable to or fail to connect to the water or sewer mains upon reasonable notice and provide the minimum number of fixtures required, the city shall do the work or have it done. The cost of the work with six-percent interest on the unpaid balance shall be collected over the period of the four (4) ensuing years and shall be billed and collected along with the water and sewer service charges. All such charges shall be a lien against the property collectible in the same manner as delinquent city taxes.

Section FC14–9. Extension beyond boundaries.

The City of Fruitland shall have the power to extend its water and/or sewage systems beyond the city limits.

Section FC14–10. Construction of private systems.

Within such parts of the city and within such areas beyond the city limits as have been supplied with water or sewage systems by the city, no water supply, sewerage or stormwater drainage, or any part or appurtenances thereof, and no water mains, sewers or drains or connections therewith shall be constructed by any person or persons, firm, corporation, institution or community, whether upon private premises, or otherwise, without the written consent of and under rules prescribed by the Department of Public Works. Any violation of the provisions of this section shall be a misdemeanor.

Section FC14–11. Pollution of water supply.

No person shall do anything which will discolor, pollute or tend to pollute any water used or to be used in the city water supply system. Any violation of the provisions of this section shall be a misdemeanor.

Section FC14–12. Finance.

For the purpose of financing and paying for the construction, operation, maintenance and repair of any plant, system or installation, or other improvements provided for under the provisions of this Article, the City of Fruitland shall have the power:

- A. To issue bonds in accordance with the provisions of § FC5–17 of this Charter.
- B. To assess the cost of these projects or any part thereof on the property abutting on the water, sewerage and stormwater sewers in accordance with the special assessment procedure set forth in Article XV hereof.
- C. To charge and collect such service rates, water rents or other charges as the Council may from time to time determine to be necessary for water supplied and for the removal of sewage. These charges shall be billed and collected by the Department of Finance, and if water bills are uncollected thirty (30) days after billing, the water may be turned off. All charges shall be a lien on the property, collectible in the same manner as delinquent city taxes.

ARTICLE XV

Special Assessment Procedure

Section FC15–1. Levy and collection of special assessments.

The City of Fruitland shall have the power to levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon such property by the construction or installation of public improvements and to provide for the payment of all or any part of the cost of such public improvements out of the proceeds of such special assessment. Public improvements shall be constructed to include all those enumerated in § FC16–1 of this Charter and any other or additional public property rights, works or facilities acquired or constructed by the city and devoted to public uses or purposes. The Council shall determine whether a public improvement confers special benefits upon property in a limited and determinable area less than the whole city; and, if so, the Council further shall determine whether such public improvement confers special benefits upon property immediately abutting same or confers special benefits upon property in a special assessment district in which the improvements are located. In making its determination, the Council shall consider in [the] nature, purpose, scope, duration, size, cost or estimated cost and location of the particular public improvement, and any other information the Council considers material to its decision, which shall be final; and prior to making its decision, the Council may hold a public hearing after such public notice as it deems appropriate. After the Council's determination the respective procedures for special

assessments set forth in §§ FC15–2 and FC15–3 of this Charter shall be followed, except that for the purpose of relocating, opening, widening and closing of streets, alleys and public highways, the additional procedure set forth in § FC16–1 is authorized and shall be followed if the Council expressly so elects.

Section FC15–2. Procedure where abutting properties are specially benefited.

Unless the Council directs that the procedure set forth in § FC16–1 shall be followed, the procedure for special assessments shall be as follows whenever the Council shall have determined that a public improvement confers special benefits upon property immediately abutting same.

A. *Apportionment of costs.* The cost of the work being charged for shall be assessed according to the front–foot rule of apportionment or some other equitable basis determined by the Council.

B. *Limitation on amount assessed.* The amount assessed against any property for any project or improvement shall not exceed the value of the benefits accruing to the property.

C. *Classes of property.* When desirable, the affected property may be divided into different classes to be charged different rates, but the rate shall be uniform for each class. Special agreements for charges in lieu of benefit assessments may be made with respect to properties owned by other governmental bodies or agencies thereof.

D. *Ratification of charges; hearing.* Before any charge is levied, it shall be ratified by the Council. The City Clerk shall cause notice to be given stating the nature of the proposed project or improvement and the place and time at which all persons interested, or their agents or attorneys, may appear before the Council and be heard concerning the proposed special assessment. Notice of each public hearing on a proposed project or improvement shall be given by publication of a public notice thereof at least once in a newspaper of general circulation in the city. The notice shall describe the area affected, and the notice shall appear at least ten (10) days before the date of said hearing. Where the amount of the proposed assessment is dependent upon size, front footage, class or other variable factor, a notice shall be given by mail to the person to whom such property is assessed for taxation, which notice shall state the size, front footage, class or other factor which affects or determines the charge to such person for his property, and the notice shall give the time and place of the public hearing at which the person may be heard, and such notice shall be mailed at least ten (10) days before the date of such public hearing.

E. *Appeal.* Any person feeling aggrieved by the ratification of any special assessment under the provisions of this section shall have the right to appeal to the Circuit Court of the county in which said property lies within ten (10) days after the final ratification of any assessment by the Council. The Court shall not substitute its judgment for that of the Council, but shall reverse the Council only when the decision of the Council is clearly in error in matters of fact or has violated the provisions of this Charter.

F. *Lien for unpaid charges.* All charges shall become liens on the property from the date of ratification by the Council and shall be collected as are other city taxes.

G. *Payment in installments.* Special assessments may be paid in annual or more frequent installments over such period of time and in such manner as the Council may decide, except that special assessments imposed for the purpose of paying the principal and interest on a bonded indebtedness of the city shall be payable over the entire period during which any part of the bonded indebtedness is outstanding.

H. *Billing and collection.* All special assessments levied under this section shall be billed and collected by the Department of Finance.

I. *Areas benefited by extensions to public improvements.* Areas benefited by minor extensions to public improvements shall pay the same special assessment rate from and after the completion of such extension as the original area is currently paying, and such annual or other installments shall continue for the remainder of the period during which such special assessment charges are made in the original area. This assessment shall be made whether all, part of the cost or none of the cost of the extension shall be made at city expense.

Section FC15-3. Procedure where special assessment districts are specially benefited.

A. *Districts.* The city shall have the power to establish special assessment districts in limited and determinable areas for the purpose of financing the cost of acquisition and development of public improvements located in such areas, and the following procedure shall be followed whenever the Council shall have determined that a public improvement confers special benefits upon such a district, unless the Council directs that the procedures set forth in § FC16-1 shall be followed.

B. *Taxes.* The city shall have the power to levy ad valorem taxes on real and tangible property situated in any such special assessment district per one hundred dollars (\$100.) of assessed valuation at an annual rate sufficient for the purpose of defraying part or all of the cost of acquisition and development of public improvements located within the limits of such special assessment districts. The city may exempt from the levy of the special tax hereby authorized the following classes of properties:

- (1) Properties used for industrial purposes only.
- (2) Properties used for residential purposes only.
- (3) Properties furnishing off-street parking facilities equal to the requirements of any general zoning ordinance or off-street parking ordinance of the city.
- (4) Properties that furnish the same facilities for their own use as will be provided by the public improvement proposed.

C. *Notice.* The boundaries of all such special assessment districts shall be established by ordinance. At least fifteen (15) days' notice in one (1) or more newspapers of general circulation in the city shall be given before the final passage of any such ordinance. The notice shall include a description of the boundaries of the special assessment district proposed and shall fix the time and place for a public hearing thereon.

D. *Tax collections.* The special taxes hereinabove authorized shall be levied and collected, have the same priority rights, bear the same interest and penalties and in every respect be treated as city taxes. Any levy made hereunder shall be considered as not being for a general purpose of the city but as for the purpose of servicing bonds of the city.

ARTICLE XVI

Condemnation

Section FC16-1. Procedure.

Right. The City of Fruitland shall have the power to condemn any property, right or interest belonging to any person, persons, corporation, corporations, (whether such corporations be public or private and whether such property, right or interest be impressed with a prior public or quasi-public use or not) for the purpose of making public improvements. "Public improvements" shall be construed to mean sewers, drains, disposal plants, public buildings, water systems, waterworks, water and watercourses, waste reclamation or recycling plants, pollution control installations or devices, rights-of-way, streets, alleys, other public ways and sidewalks, parks, historic monuments and parking lots. The manner of procedure in case of any condemnation proceeding shall be that established in Article 33A of the Annotated Code of Maryland, titled "Eminent Domain."

Section FC16-2. Offer to purchase.

At least thirty (30) days prior to the filing of any condemnation proceedings, the city shall make an offer to purchase the property to be condemned and, at the time of making such offer, shall place on file in the Department of Finance of the city a plat showing each property to be acquired by condemnation and the sum offered or to be offered to each landowner, all or part of whose properties are to be acquired by purchase or condemnation; and such plat shall be a public record and available for inspection by the public; and each person whose property is to be acquired in whole or in part shall be given written notice of the location of said plat and its availability for inspection.

ARTICLE XVII

Miscellaneous Provisions

Section FC17-1. Oath of office.

The following persons, before entering upon the duties of their offices, shall make oath before the City Clerk that they will diligently [diligently] and faithfully, without partiality, favor or prejudice, and well and truly perform the duties of their offices: members of the Council, the City Manager, City Solicitor, heads of all offices, departments and agencies of the city government and the members of the Board of Election Supervisors. The City Clerk shall be sworn in by the President or Vice President of the Council. Each oath shall be recorded by the City Clerk in a book kept for this purpose, and a notation thereof shall be recorded in the minutes of the next ensuing meeting of the Council. A certified copy of such oath under seal may be used as evidence in any court in the state.

Section FC17-2. Personal interest.

No officer or employee of the city who serves the city in an executive capacity shall enter into or make any contract for doing work or furnishing supplies or materials for the city, nor shall they in any manner participate in the profits of any contract made by or entered into by them for the city with any person, firm or corporation. Any such contract shall be null and void and funds due thereunder shall not be recoverable at law by the officer or employee of the city. This section shall not apply to any stockholder of a corporation who is not an officer of the corporation.

Section FC17-3. Official bonds.

The City Treasurer, Deputy Treasurer and such other officers or employees of the city as the Council or this Charter may require shall give bond in such amount and with such surety as may be required by the Council. The premiums on such bonds shall be paid by the city.

Section FC17-4. Deeds.

No deed or deeds conveying real estate or chattels real, situated or located within the corporate limits of the City of Fruitland shall be admitted to record among the land records of Wicomico County, Maryland, until the property thereby conveyed or assigned has been duly transferred upon the city assessment books in the office of the City Treasurer to the grantee or assignee named in such deed. Before any such property shall be transferred on the assessment books, all city taxes, special assessments, water rents and sewer charges and all other public charges due the City of Fruitland on Such property for the current year and all prior years must be paid, and as evidence of such payment the City Treasurer shall stamp upon the deed his certificate thereof. The City Treasurer shall further certify the fact of the transfer upon the deed, and the Clerk of the Circuit Court shall not record or accept for recording any deed without the certificates of the City Treasurer as prescribed by this section.

Section FC17-5. Existing ordinances.

All ordinances, resolutions, rules and regulations in effect in the city at the date of final adoption hereof and which are not in conflict with the provisions of this Charter shall be effective and remain effective until amended, altered or repealed according to the provisions of this Charter.

Section FC17-6. Misdemeanors.

Every act or omission designated as a misdemeanor in this Charter, unless otherwise provided, shall be punishable upon conviction before any Judge of the District or Circuit Court of the county within which the offense is committed by a fine not exceeding one hundred dollars (\$100.) or imprisonment for thirty (30) days in the county jail, or both, in the discretion of the Court. The party aggrieved shall have the right to appeal as is provided under the general laws of the state. Where the act or omission is of continuing nature and is persisted in, in violation of the provisions of this Charter or of any rules or regulations formulated hereunder, a conviction for one (1) offense shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction.

ARTICLE XVIII

Legality

Section FC18-1. Inconsistent ordinances.

All ordinances and parts of ordinances inconsistent with the provisions of this Charter be and the same are hereby repealed to the extent of such inconsistency.

Section FC18-2. Saving clause.

The enumeration of particular powers in this Charter shall not be held or deemed to be exclusive, and the city shall have such other powers as are incident to these specifically mentioned or as a necessary consequence of the powers herein conferred. In addition to the powers enumerated in this Charter, the city shall have all powers, rights and privileges now or hereafter granted to municipalities by the Constitution and laws of the State of Maryland.

Section FC18-3. Severability clause.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid shall appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

NOTES

(1) Reserved.

(2) Reserved.

(3) Reserved.

(4) So in original. Probably should read "... cultural development of the inhabitants of the city as the Council may determine" or "... cultural development of the inhabitants of the city as the inhabitants of the city and the Council may determine."